

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF IOWA  
CENTRAL DIVISION

- - - - -X  
UNITED STATES OF AMERICA, :  
 :  
Plaintiff, : Criminal No. 4:15-103  
 :  
vs. :  
 :  
JOHN FREDERICK TATE, : TRANSCRIPT OF SENTENCING  
 :  
Defendant. :  
- - - - -X

Second Floor Courtroom  
United States Courthouse  
123 East Walnut Street  
Des Moines, Iowa 50309  
Tuesday, September 20, 2016  
3:03 p.m.

BEFORE: THE HONORABLE JOHN A. JARVEY, Chief Judge.

APPEARANCES:

For the Plaintiff: JOSEPH P. COONEY, ESQ.  
RICHARD C. PILGER, ESQ.  
Public Integrity Section  
Criminal Division  
U.S. Department of Justice  
1400 New York Avenue NW  
Suite 12100  
Washington, D.C. 20005

For the Defendant: LAURIN H. MILLS, ESQ.  
DAVID A. WARRINGTON, ESQ.  
LeClair Ryan  
2318 Mill Road, Suite 1100  
Alexandria, Virginia 22314

Terri L. Martin, CSR, RPR, CRR  
United States Court Reporter  
Room 189, U.S. Courthouse  
123 East Walnut Street  
Des Moines, Iowa 50309

## P R O C E E D I N G S

(In open court, with defendant present, and  
Mr. Warrington via telephone.)

THE COURT: Please be seated.

We're here in the matter of the United States of  
America versus John Tate. It's Case 4:15-cr-103. Mr. Tate is  
before the court for sentencing. He was found guilty on May 5th  
of 2016 of Counts 1 through 4 of the November 19, 2015  
superseding indictment. He's present. He's represented by  
Laurin Mills. The government is represented by Richard Pilger  
and Joseph Cooney.

In preparation for sentencing here, I've reviewed the  
presentence report in its entirety. I've also received  
sentencing memoranda from both the government and the defendant.  
There were numerous letters submitted in support of the  
defendant.

We have the same guideline issues in play in this case  
as we did for United States versus Benton which preceded us here  
by a couple hours.

Mr. Pilger, did you want to make argument on the  
sentencing guideline issues?

MR. PILGER: Mr. Cooney will argue, Your Honor.

MR. COONEY: Your Honor, we have nothing to add to our  
papers and what Mr. Pilger already argued in the prior  
sentencing hearing, so to that extent we want to adopt those.

1 If there are new arguments or issues raised by Mr. Tate, of  
2 course, we would like an opportunity to respond to them, but --

3 THE COURT: Yes.

4 MR. COONEY: But I think we can rest on the record.

5 THE COURT: Thank you.

6 Mr. Mills?

7 And the record should also reflect that his attorney,  
8 Mr. Warrington, is appearing by phone.

9 Can you hear us okay, Mr. Warrington?

10 MR. WARRINGTON: Yes, I can, Your Honor.

11 Thank you.

12 THE COURT: Thank you.

13 Go ahead, Mr. Mills.

14 MR. MILLS: Good afternoon, Your Honor.

15 THE COURT: Good afternoon.

16 MR. MILLS: Your Honor, I was here earlier this  
17 afternoon for Mr. Benton's sentencing, and I heard your  
18 analysis, and unless for some reason that you think there's a  
19 distinction between Mr. Tate and Mr. Benton in that analysis or  
20 have some question about that, otherwise, we'll rest on our  
21 papers.

22 THE COURT: No, I don't think there is.

23 I find that he has a total offense level of 16, a  
24 criminal history category of I for all of the reasons set forth  
25 on the record in United States versus Jesse Benton earlier this

1 afternoon.

2 I would hear first from you, Mr. Mills, then from  
3 Mr. Tate, and then from Mr. Pilger or Mr. Cooney before imposing  
4 sentence.

5 MR. MILLS: Your Honor, I was dreading this day for a  
6 long time and for a whole lot of different reasons, both  
7 personal and professional; but I just would like to make two  
8 brief points.

9 One is in response to something Mr. Pilger said  
10 earlier today. Mr. Tate and the other defendants in this case  
11 have spent their whole life in politics, and that's rare.  
12 Politics is a tough business, and it's hard to find people who  
13 are willing to devote a career to that. And you overlay that  
14 with the regulatory regime and fast-paced nature of that  
15 business and all of the decisions that they have to make in a  
16 50-state campaign, mistakes can be made. And I'm not trying to  
17 excuse them at all; just draw that out. And criminalizing  
18 people who can make mistakes, you know, we didn't traditionally  
19 do that in this country. We've done it in recent years. And,  
20 again, I don't want to minimize it; just point out the reality  
21 of that.

22 And the other reality -- and I've been looking for the  
23 right word for this to describe what has happened to Mr. Tate  
24 and his family as a result of this prosecution, and the best  
25 word I could come up with is flattened. He and his family have

1 been absolutely flattened by what has happened, professionally,  
2 personally, every way that you can punish them.

3 And you -- I'm not -- I listened to your analysis this  
4 afternoon, and I think that you showed appropriate mercy, and I  
5 ask you, the court, to show appropriate mercy on Mr. Tate.

6 Thank you, Your Honor.

7 THE COURT: Mr. Tate, is there something you would  
8 like to say before sentence is imposed?

9 THE DEFENDANT: Yes, just briefly.

10 THE COURT: Could you pull that microphone just a  
11 little closer?

12 Thank you.

13 THE DEFENDANT: Just briefly, Your Honor.

14 I am aware of what happened with Mr. Benton and what  
15 you did there, and I would just simply ask for similar mercy  
16 from you for myself and my family.

17 Thank you.

18 THE COURT: Thank you.

19 Mr. Cooney.

20 MR. COONEY: On behalf of the United States, Your  
21 Honor, I would just add a few things. I, obviously, was also  
22 present for the last sentencing hearing, and I adopt all of the  
23 arguments that Mr. Pilger made in his allocution.

24 John Tate and his co-defendants did a very unsavory  
25 thing. They paid a political leader who had a great wealth of

1 support in Iowa for his endorsement. They paid him to cause him  
2 to abandon one political campaign and move to another on the eve  
3 of the Iowa caucuses. That unsavory thing is not a crime. That  
4 unsavory thing is one of the costs of politics. It is one of  
5 the things that happens.

6 But what made it a crime in this particular case was  
7 the coverup, the concealment efforts that they engaged in after  
8 the fact. The crime was keeping this a secret from the voters  
9 of Iowa and the general public in the manner that they did by  
10 falsifying campaign records and lying to the FEC. And what  
11 aggravates that offense is that they weaponized the FEC to  
12 achieve their aim of concealment, to not have to tell Iowa  
13 voters that were paying Kent Sorenson for his support, and that  
14 is clear from what I think was some of the strongest and most  
15 compelling evidence in this case, and it was the events of  
16 December 28th and December 29th, 2011, in particular, when John  
17 Tate and his co-defendants issued a press release from the Paul  
18 Campaign telling the public to look at the FEC reports in  
19 denying that they were paying Kent Sorenson for his endorsement.  
20 "Check the FEC reports," that press release said, and then they  
21 told Kent Sorenson to go on national TV, on Fox. We played it  
22 here in court and he testified here about his interview on CNN  
23 as well where he challenged the public to check the reports.  
24 And within minutes or hours of that press release and those  
25 appearances on Fox and CNN, John Tate writes the e-mail, "Wipe

1 it off the books."

2           These defendants knew exactly what they were doing  
3 from the moment that they hatched the plan to conceal the  
4 payments. They knew that they were going to have to falsify  
5 campaign records. They knew that they were going to have to lie  
6 to the FEC; but what they also knew, because of their career in  
7 politics and all the time that they spent in it, because of  
8 their engagement in the process that Mr. Mills just described,  
9 they knew that they could use the FEC as a weapon to protect  
10 them, to protect the campaign, and to commit the fraud on the  
11 Iowa voters that they set out to do when they outright lied  
12 about whether they were paying Kent Sorenson.

13           That is a serious crime. That's a crime that  
14 denigrates the electoral process. That is a crime that violates  
15 our democratic system of electing leaders, and that is not a  
16 regulatory offense. That is an offense on the democratic  
17 system. It's an offense that merits serious punishment.

18           Finally, I'll also respond to the argument that was  
19 made and I think that I just actually did respond to it about  
20 mistakes can be made. This crime was not the product of a  
21 fast-moving environment. This crime was not a product of  
22 difficult or complicated regulations. This crime was  
23 calculated. This wasn't a mistake. This crime was committed  
24 right there. It was hatched on December 28, 29, wipe it off the  
25 books, check the FEC records, they'll back us up.

1           That's not a mistake. That's a deliberate offense.

2           Just now in their sentencing papers Mr. Tate makes an  
3 argument about all that he has suffered through this prosecution  
4 and all that his family has suffered, and I don't dispute any of  
5 that. The government does not dispute that his family has  
6 suffered and that this has been a difficult process. That  
7 distinguishes him from other federal defendants in no way  
8 whatsoever, whether they stand before this court as defendants  
9 in a murder case, a kidnapping case, a drug case, a mortgage  
10 fraud case, or anything else. All defendants and all their  
11 families suffer. That is part of this process and that is  
12 incorporated into our system of punishment and our guidelines.

13           Mr. Tate nor his co-defendants have not suffered  
14 nearly as much as our representative system of government from  
15 the nature of the offense they committed and from the nature of  
16 offenses like the ones that they committed.

17           The probationary sentence that Mr. Tate requests in  
18 this case threatens to shatter the confidence of the public in  
19 the criminal justice system to protect our system of government  
20 from offenses like the ones that he committed. He should be  
21 sentenced to a guideline sentence of 27 months.

22           THE COURT: Thank you.

23           In fashioning an appropriate sentence, I have  
24 considered each of the factors found in Title 18, United States  
25 Code, Section 3553(a).



1           Among those factors are the seriousness of the  
2 offense. The offense is serious for the reasons I've already  
3 articulated, mostly because the regulatory scheme here is  
4 designed to create the transparency that makes this American  
5 government distinguishable from others. It distinguishes us  
6 from Latin American countries, from Eastern European countries,  
7 from Commons countries. It is probably the best thing about our  
8 government, and that's why any offense against it becomes a  
9 serious offense.

10           A mistake to me is when my wife asks me to bring home  
11 skim milk and I get whole milk, and that's a mistake. This was  
12 a very calculated scheme from the beginning, and it continued  
13 on. I just don't see the word "mistake" being appropriate here.

14           Nothing about this sentence is intended to diminish my  
15 respect for the decision to prosecute here or the high quality  
16 work of the FBI or the Justice Department.

17           I've considered the question of just punishment, the  
18 need for adequate deterrence to criminal conduct, the need to  
19 protect the public from further crimes, to promote respect for  
20 the law. I've looked to the sentencing guidelines as an  
21 important though not in any way controlling factor to be  
22 considered. And I've weighed heavily the need to avoid  
23 unwarranted sentencing disparity of defendants with similar  
24 records or lack of it who have been found guilty of similar  
25 conduct.

1           I conclude that the following sentence is sufficient  
2 but not greater than necessary to address the essential  
3 sentencing considerations.

4           It is the judgment of the court that John Frederick  
5 Tate is sentenced to two years probation on each of Counts 1  
6 through 4, those terms to run concurrent, meaning at the same  
7 time.

8           While on probation you shall not commit another  
9 federal, state, or local crime. You shall not possess a firearm  
10 or destructive device. You shall not illegally possess a  
11 controlled substance. We'll waive the drug testing requirement.

12           You shall comply with all of the standard conditions  
13 of supervision as set forth by the Sentencing Commission, plus  
14 the special conditions, to include the search condition found in  
15 the presentence report, six months of home confinement with  
16 electronic monitoring under the standard language and conditions  
17 in this district, 80 hours per year of community service, and a  
18 \$10,000 fine. You are ordered to pay a \$400 special assessment.  
19 The fine and assessment are due and payable with interest to the  
20 Clerk of Court.

21           You have a right to take an immediate appeal from this  
22 judgment. Any appeal has to be filed within 14 days from today.

23           Mr. Mills, do you have anything else?

24           MR. MILLS: Nothing, Your Honor.

25           Thank you.

1 THE COURT: Mr. Cooney?

2 MR. COONEY: Nothing, Your Honor.

3 THE COURT: We're in recess.

4 (Proceedings concluded at 3:17 p.m.)

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## C E R T I F I C A T E

I, the undersigned, a Certified Shorthand Reporter of the State of Iowa, do hereby certify that I acted as the official court reporter at the hearing in the above-entitled matter at the time and place indicated.

That I took in shorthand all of the proceedings had at the said time and place and that said shorthand notes were reduced to computer transcription under my direction and supervision, and that the foregoing computer transcription pages are a full and complete transcript of the shorthand notes so taken.

Dated at Des Moines, Iowa, this 1st day of November, 2016.

/s/ Terri L. Martin  
CERTIFIED SHORTHAND REPORTER